

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Criminal Action No. 06-00408-20,24/25,28-GAF

v.

DEMPSEY JOHNSON,  
RAPHAEL DONNELL,  
BOUN RATTANAVONG,  
DUNG A. NGUYEN,

Defendant.

MEMORANDUM OF MATTERS DISCUSSED AND  
ACTION TAKEN AT PRETRIAL CONFERENCE

**PENDING CHARGES:** On November 28, 2006, the Grand Jury returned a twenty count Indictment against defendants Derrick T. Seals, Tremayne Tyler, Andre L. Brice, Jason D. Cross, Brian C. Fennix, Arron Hall, Maurice L. Davis, Wayne A. Williams, Adrian Wright, Jeffery E. Morgan, Nicole Wyatt, Jermaine Talley, Jon C. Crawford, Adrian Washington, Damon S. Bryant, Simona S. Bryant, Gerald E. Dunn, and Delesha N. Hughes. The Indictment charged the defendants with conspiracy to distribute, with distribution and with attempting to possess with intent to distribute cocaine base “crack,” MDMA, cocaine and PCP. The Indictment also seeks forfeiture of property.

On January 24, 2007, the Grand Jury returned a twenty-two count Superseding Indictment, adding defendants Dimitri Jones, Dempsey Johnson, and Quebe Seals. In addition, two counts of possession of a controlled substance were added.

On May 9, 2007, the Grand Jury returned a twenty-two count Second Superseding Indictment, adding defendants Vu Nguyen Huynh and Shannon Dewayne Luckey.

On July 17, 2007, the Grand Jury returned a twenty-two count Third Superseding Indictment, adding defendants Raphael L. Donnell, Boun Rattanaovong, James Petersen, Southanome Frichitavong, and Dung A. Nguyen.

On July 19, 2007, the Grand Jury returned a twenty-two count Fourth Superseding Indictment, including defendant Southanome Frichitavong in Count One.

All of the defendants who have appeared have entered guilty pleas with the exception of Dempsey Johnson, Raphael Donnell, Boun Rattanaovong, and Dung Nguyen.

The following matters were discussed and action taken during the pretrial conference:

**TRIAL COUNSEL:**

Government: David Detar Newbert

Case Agents: Special Agent Mike Oyler of the FBI; Detective Dan Kirby of the Jackson County Drug Task Force; Special Agent Brian Cyprian of the FBI

Defense: Willis Toney for defendant Johnson  
Willie Epps, Jr., for defendant Donnell  
Chase Higinbotham for defendant Rattanaovong  
Darren Fulcher for defendant Nguyen

**OUTSTANDING MOTIONS:**

- (1) Government's **SEALED** Motion to Unseal Plea Agreement Filed Under Seal, doc #583;
- (2) Donnell's Response to Notice of Government's Intent to Offer Evidence of Prior Bad Acts, doc. #600;
- (3) Donnell's Motion in Limine to Prohibit the Government from Eliciting Testimony From Any Witness That Any Agreement They Signed Requires Truthful Testimony, doc #601;
- (4) Donnell's Motion in Limine to Preclude Evidence relating to his Alleged Involvement in a Shooting that is Totally Unrelated to the Charged Conspiracy, doc. # 623;
- (5) Rattanaovong's Motion in Limine, doc. # 622;

**TRIAL WITNESSES:**

Government: 35 with stipulations; up to 40 without stipulations

Defendant Johnson: the defendant is the only possible witness;

Defendant Donnell: 4 witnesses, the defendant may testify

Defendant Rattanaovong: 2 witnesses, the defendant may testify

Defendant Nguyen: 4-5 witnesses, the defendant may testify

**TRIAL EXHIBITS**

Government: 250 exhibits in total

Defendant Johnson: 0 exhibits

Defendant Donnell: 15 exhibits

Defendant Rattanaovong: 6 exhibits

Defendant Nguyen: no more than 10 exhibits

**DEFENSES:** General Denial

**POSSIBLE DISPOSITION:**

( X ) Definitely for trial; ( ) Possibly for trial; ( ) Likely a plea will be worked out

**TRIAL TIME: 6 days**

Government's case including jury selection: 5 days

Defense case: 1 day

**STIPULATIONS:** The government is proposing that the parties stipulate to each of the four chemist's reports as well as to chain of custody.

**UNUSUAL QUESTIONS OF LAW:** None

**FILING DEADLINES:**

**Witness and Exhibit List**

Government: Friday before the pretrial conference

Defense: Friday before the pretrial conference

**Counsel are requested to list witnesses in alphabetical order on their witness list.**

**Exhibit Index, Voir Dire, Jury Instructions: Noon, Wednesday February 6, 2008**

**Please Note:** Jury instructions must comply with Local Rule 51.1

**Motion in Limine:** Motions to be filed no later than January 28, 2008; Suggestions in opposition to be filed no later than February 4, 2008.

**TRIAL SETTING:** Criminal jury trial docket commencing February 11, 2008.

**Please note:** Because counsel do not believe the case can be completed in one week, they are requesting the first week of the docket.

**IT IS SO ORDERED.**

\_\_\_\_\_/s/\_\_\_\_\_  
SARAH W. HAYS  
United States Magistrate Judge